IN RE WORLD TRADE CENTER LOWER :	UNITED STATES DISTI SOUTHERN DISTRICT	•	- X	DOCUMENT ELECTRONICALLY DOC #: DATE FILED: PARE
JAN SALWA, Plaintiff, -against- DAVID MEDINA, 3D MUSIC GROUP LLC, and ALEX TAPIA, Defendants.		- · · · · · · · · · · · · · · · · · · ·	**	
-against- DAVID MEDINA, 3D MUSIC GROUP LLC, and ALEX TAPIA, Defendants.	JAN SALWA,		:	
ALEX TAPIA, Defendants.	-against-	Plaintiff,	*	21 MC 102
<u> </u>	-	USIC GROUP LLC, and	* * * * * * * * * *	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

Plaintiff Jan Salwa filed a Complaint on February 22, 2008, alleging that he suffered multiple physical ailments, including hypertension, cardiac problems, and lung and prostate cancer, as a result of debris removal work performed in the months following the September 11, 2001, terrorist attacks. Plaintiff's wife, Irena Salway, claimed derivatively for her losses due to the injuries sustained by her husband. On December 4, 2012, Plaintiff's case was selected to proceed towards trial and complete pre-trial discovery along with other so-called Phase II cases in the 21 MC 102 master calendar.

It has come to the Court's attention that Plaintiff Jan Salwa died on June 4, 2009, four years ago. Rule 25(a)(1) of the Federal Rules of Civil Procedure provides that if a party dies, a motion for substitution of the proper party may be made by any party or by the decedent's successor or representative. "If the motion is not made within 90 days after service of a statement noting the death, the action by...the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1).

Plaintiff did not move for substitution, even to this day. As seen in the attached documents, Irena Salwa signed verifications to discovery submissions "as personal representative of the estate of Jan Salwa" in September and November 2011. Plaintiff's counsel also appears to have submitted authorizations for the release of medical records with Jan Salwa's signature dated December 17, 2009, six months after his death.

It is hereby ordered that Plaintiff shall show cause by June 24, 2013, why this action should not be dismissed for failure to substitute Jan Salwa as a party within 90 days of notice of his death. Plaintiff's counsel shall explain why he submitted supplemental discovery responses not verified by the injured Plaintiff himself as Rule 33(b)(1)(A) requires.

SO ORDERED.

Dated:

June /1,2013

New York, New York

United States District Judge

08CV02707

VERIFICATION

Potwierdzam, ze powyzsze odpowiedzi sa prawdziwe i prawidlowe zgodnie z moja wiedza.

Mam swiadomosc, ze jezeli ktorekolwiek z powyzszych odpowiedzi sa falszywe, to ja podlegam karze.

Pewne fakty i sprawy okreslone w tych odpowiedziach nie sa wziete z mojej wiedzy, a informacje te i fakty zostały zebrane przez mojch adwokatow Worby Groner Edelman & Napoli Bern, LLP na podstawie dokumentacji medycznej, dokumentow i innych informacji zebranych przeze mnie i mojch adwokatow.

Dated: 9/15/11

Signature

Irena Salwa, as Personal Representative of the Estate of Jan

Salwa

08CV02707

CERTIFICATION

Pursuant to 28 U.S.C. §1746, I certify under penalty of perjury that I have reviewed those questions and answers contained in the database docket 21MC102/103 (AKH) with reference to my individual claim, and those responses are true and correct.

Executed M. 14 , 2011

Signature Solva Solva
Irena Salwa, as Personal Representative of the Estate of Jan

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JAN. 11. 2010 11:19AM

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MO. 4215 P. 3/3



AUTHORIZATION FOR THE RELEASE OF HEALTH INFORMATION PURSUANT TO HEAA [This form has been approved by the New York State Department of Health]

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AUTHORIZATION FOR THE RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA (This flyin has been approved by the New York State Department of Monthl)

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